

### REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

By this Amendment, **Claims 1, 2, 12 – 17, 20, 21 and 24, 26** remain pending for examination subsequent to the amendments to **Claims 1, 12, 13, 17, 20, 24, and 26** and the cancellation, without prejudice or disclaimer, of **Claims 11, 16, 18, 19, and 25**. Favorable consideration is requested.

**Claims 1, 2 and 24** were rejected under 35 U.S.C. §102(e) as being anticipated by Kanuri, (U.S. Patent 6,934,260; hereafter “Kanuri”). This rejection is rendered moot by the current amendments by which, in part, **Claim 1** recites the features of **Claim 11** and **Claim 24** recites the features of **Claim 25**. Therefore, the Applicants respectfully request that the rejection under 35 U.S.C. §102(e) be reconsidered and withdrawn.

#### Rejections Under 35 U.S.C. §103(a)

The outstanding Office Action includes the following rejections under 35 U.S.C. §103(a):

- a) **Claims 11, 12, 17 – 20, 25, and 26** were rejected as being unpatentable over Kanuri in view of Fisher, *et al.*, (U.S. Patent 6,931,018; hereafter “Fisher”); and
- b) **Claims 13 – 16 and 21** were rejected as being unpatentable over Kanuri in view of Fisher and further in view of Kramer, *et al.*, (U.S. Patent 6,658,027; hereafter “Kramer”).

The Applicants respectfully traverse both of rejections (a) and (b), and further maintain the request that these rejections be reconsidered and withdrawn.

**Rejection (a)** is addressed with regard to currently amended independent **Claims 1, 17, and 24**. **Claim 1** is currently amended to include the features of canceled **Claim 11**, **Claim 17** is currently amended to include the features of canceled **Claims 18 and 19**, and **Claim 24** is currently amended to include the features of canceled **Claim 25**.

In particular, with regard to the features of the aforementioned **Claims 11, 18, 19, and 25**, the rejection acknowledges that “Kanuri does not explicitly teach the control unit being arranged, upon receiving a data packet from any of the other ingress/egress ports having a destination address which is not stored in the table, to control the switching fabric to transmit the data packet to the first ingress/egress port.” Further to that acknowledgement, the Applicants submit that a logical extension is that Kanuri fails to teach or suggest a solution, *i.e.*, destination, for a data packet from any of the other ingress/egress ports that has a destination address which is not stored in the routing table. Rather, Kanuri only describes disabling a learning bit for the router interface port so that the corresponding MAC and IP addresses are not stored in the router table (Kanuri, col. 4, line 53 - col. 5, line 3).

To compensate for the acknowledged deficiency of the “Arrangement for Controlling Learning of Layer 3 Network Addresses in a Network Switch,” as described by Kanuri, relative to the rejected claims, the rejection points to the “Local Network Router and Method of Routing IP Data Packets,” described by Fisher. However, in spite of the description provided by Fisher to the effect of, “...when the destination IP address in the IP data packet does not match an IP addresses stored in the routing table, step 606 is performed. In step 606, the IP data packet is routed to the external network,” (Fisher, col. 7, lines 15 - 18), the Applicants respectfully submit that the references are

not sufficiently compatible, even to one of ordinary skill in the art, to justify combining in an effort to render the pending claims obvious.

More specifically, Fisher fails to address the learning of layer 3 addresses in the context of a network switch as described by Kanuri, and further describes the routing of IP packets completely outside the context of a network switch.

As stated in MPEP 2143.01(III):

The mere fact that references can be combined or modified does not render the resultant combination obvious unless \*\*>the results would have been predictable to one of ordinary skill in the art. *KSR International Co. v. Teleflex Inc.*, 550 U.S. \_\_\_, \_\_\_, 82 USPQ2d 1385, 1396 (2007) ("If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.")

The Applicants respectfully submit that the incompatibility of the references cannot be highlighted any more strongly than by pointing out that the two references were not only issued within one week of each other, but were also examined and allowed *by the same examiner* (Ajit Patel) at the U.S. Patent and Trademark Office.

Therefore, the Applicants respectfully traverse the current rejection due to the lack of technical compatibility of the cited references as established by the prosecution thereof, and further request that **rejection (a)** under 35 U.S.C. §103(a) be reconsidered and withdrawn.

With regard to **rejection (b)**, **Claims 13 - 16** depend from independent **Claim 1** and **Claim 21** depends from independent **Claim 17**, either directly or indirectly, and are therefore distinguishable over Kanuri for at least the reasons set forth above. Further,

neither Fisher nor Kramer bridges the aforementioned technical gap between **Claims 1 and 17** and Kanuri, nor are any arguments to that effect offered in the rejection.

Therefore, as a result of their dependencies, **Claims 13 - 16 and 21** are fundamentally distinguishable over Kanuri, Fisher, and Kramer; and thus the Applicants respectfully submit that there is no need to address the merits of Fisher and Kramer as discussed in the present rejection. Further, to avoid any prejudice, the Applicants do not acquiesce to the characterization of Fisher and Kramer relative to **Claims 13 – 16 and 21**.

As a result, for at least the reasons set forth above, it is respectfully submitted that **rejection (b)** under 35 U.S.C. §103(a) should be reconsidered and withdrawn.

#### Conclusion

The remaining references of record have been studied. It is respectfully submitted that they do not compensate for the deficiencies described above with regard to rejected the presently rejected claims.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance, and early and forthright issuance of a Notice to that effect is earnestly solicited.

Respectfully Submitted,

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